Texas Department of Insurance
Division of Workers' Compensation
Medical Fee Dispute Resolution, MS-48
7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645
518-804-4000 telephone • 512-804-4811 fax • www.tdi.texas.gov

MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

VISTA HOSPITAL OF DALLAS
4301 VISTA RD
PASADENA TX 77504-2117

Respondent Name
CITY OF DALLAS

Carrier's Austin Representative Box
Box Number 53

MFDR Tracking Number
M4-10-0540-01

MFDR Date Received
September 21, 2009

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "…because Provider did request that the implantables be paid separately, Carrier should have reimbursed Provider pursuant to section 134.403(f)(1)(A). Carrier has severely under-reimbursed Provider by either applying the inappropriate reimbursement methodology or inappropriately calculating reimbursement under the applicable rule."

Amount in Dispute: $4,155.13

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "As evidenced by the attached documentation, Self-Insured has denied additional payment to the Provider due to improper coding for implantables being used. An implant is indicated by RC278, they are billing with an A code which is for medical supplies an incorrect."

Response Submitted by: Harris & Harris, 5900 Southwest Parkway, Building 2, Suite 100, Austin, Texas 78735

SUMMARY OF FINDINGS

Date(s) of Service	Disputed Services	Amount In Dispute	Amount Due
November 17, 2008	Outpatient Hospital Services	$4,155.13	$4,155.13

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.403, titled *Hospital Facility Fee Guideline – Outpatient*, sets out the reimbursement guidelines for facility services provided in an outpatient acute care hospital.
3. 28 Texas Administrative Code §134.203, titled *Medical Fee Guideline for Professional Services*, sets out the reimbursement guidelines for professional medical services.

4. The services in dispute were reduced/denied by the respondent with the following reason codes:
   - 134 – This E&M service is included within the surgical service
   - 176 – Modifier 27 / TC represents the technical component of services performed
   - 222 – Charge exceeds Fee Schedule allowance
   - 330 – CCI Comprehensive/Compound Procedure
   - 779 – Items, Codes and Services that are not covered by Medicare.
   - 785 – Items and/or services are packaged into APC rate. Therefore there is no separate APC payment.
   - 788 – Significant procedure, Multiple procedure reduction applies.
   - ANSI 97 – 97 - Payment is included in the allowance for another service/procedure.
   - ANSIW1 – W1 - Workers Compensation State Fee Schedule Adjustment
   - ANSI193 – 193 - Original payment decision is being maintained. This claim was processed properly the first time.
   - ANSIW3 – W3 - Additional payment made on appeal/reconsideration.

Issues

1. Are the disputed services subject to a contractual agreement between the parties to this dispute?
2. What is the applicable rule for determining reimbursement for the disputed services?
3. What is the recommended payment amount for the services in dispute?
4. Is the requestor entitled to reimbursement?

Findings

1. Review of the submitted documentation finds no information to support that the disputed services are subject to a contractual agreement between the parties to this dispute.
2. This dispute relates to facility services performed in an outpatient hospital setting with reimbursement subject to the provisions of 28 Texas Administrative Code §134.403, which requires that the reimbursement calculation used for establishing the maximum allowable reimbursement (MAR) shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the Federal Register with the application of minimal modifications as set forth in the rule. Per §134.403(f)(1), "The sum of the Medicare facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by: (A) 200 percent; unless (B) a facility or surgical implant provider requests separate reimbursement in accordance with subsection (g) of this section, in which case the facility specific reimbursement amount and any applicable outlier payment amount shall be multiplied by 130 percent." Review of the submitted documentation finds that separate reimbursement for implantables was requested. However; §134.403(g)(1) requires that a provider billing separately for an implantable "shall include with the billing a certification that the amount billed represents the actual cost (net amount, exclusive of rebates and discounts) for the implantable. The certification shall include the following sentence: 'I hereby certify under penalty of law that the following is the true and correct actual cost to the best of my knowledge.'" Review of the submitted billing documentation finds no such certification. The Division concludes that the facility has not requested separate reimbursement of implantables in accordance with subsection (g); therefore, separate payment of implantables is not recommended. The applicable rule for reimbursement is §134.403(f)(1)(A). Accordingly, the Medicare facility specific reimbursement including outlier payments shall be multiplied by 200 percent.
3. Under the Medicare Outpatient Prospective Payment System (OPPS), each billed service is assigned an Ambulatory Payment Classification (APC) based on the procedure code used, the supporting documentation and the other services that appear on the bill. A payment rate is established for each APC. Depending on the services provided, hospitals may be paid for more than one APC per encounter. Payment for ancillary and supportive items and services, including services that are billed without procedure codes, is packaged into payment for the primary service. A full list of APCs is published annually in the OPPS final rules which are publicly available through the Centers for Medicare and Medicaid Services (CMS) website. Reimbursement for the disputed services is calculated as follows:
   - Procedure code J3490 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into payment for other services, including outliers.
   - Per Medicare policy, procedure code A4649 is included in other services billed on the same date of service. Separate payment is not recommended.
   - Per Medicare policy, procedure code A4649 is included in other services billed on the same date of service. Separate payment is not recommended.

- Procedure code 85014 has a status indicator of A, which denotes services paid under a fee schedule or payment system other than OPPS. Per 28 Texas Administrative Code §134.403(h), for outpatient services for which Medicare reimburses using fee schedules other than OPPS, reimbursement is made using the applicable Division fee guideline in effect for that service on the date the service was provided. Facility payment for the technical component of this service is calculated according to the Medical Fee Guideline for Professional Services, §134.203(e)(1). The fee listed for this code in the Medicare Clinical Fee Schedule is $3.31. 125% of this amount is $4.14. The recommended payment is $4.14.
- Procedure code 29888 has a status indicator of T, which denotes a significant procedure subject to multiple procedure discounting. The highest paying status T APC is paid at 100%; all others are paid at 50%. This procedure is paid at 100%. This service is classified under APC 0042, which, per OPPS Addendum A, has a payment rate of $2,911.27. This amount multiplied by 60% yields an unadjusted labor-related amount of $1,746.76. This amount multiplied by the annual wage index for this facility of 0.9816 yields an adjusted labor-related amount of $1,714.62. The non-labor related portion is 40% of the APC rate or $1,164.51. The sum of the labor and non-labor related amounts is $2,879.13. If the total cost for a service exceeds 1.75 times the OPPS payment and also exceeds the annual fixed-dollar threshold of $1,575, the outlier payment is 50% of the amount by which the cost exceeds 1.75 times the OPPS payment. Per the OPPS Facility-Specific Impacts file, CMS lists the cost-to-charge ratio for this provider as 0.326. This ratio multiplied by the billed charge of $1,812.75 yields a cost of $590.96. The total cost of all packaged items is allocated proportionately across all separately paid OPPS services based on the percentage of the total APC payment. The APC payment for this service of $2,879.13 divided by the sum of all APC payments is 76.06%. The sum of all packaged costs is $20,199.44. The allocated portion of packaged costs is $15,362.72. This amount added to the service cost yields a total cost of $15,953.68. The cost of this service exceeds the annual fixed-dollar threshold of $1,575. The amount by which the cost exceeds 1.75 times the OPPS payment is $10,915.20. 50% of this amount is $5,457.60. The total APC payment for this service, including outliers and any multiple procedure discount, is $8,336.73. This amount multiplied by 200% yields a MAR of $16,673.46.
- Per Medicare policy, procedure code 29884 is included in, or mutually exclusive to, another code billed on the same date of service. Separate payment is not recommended.
- Per Medicare policy, procedure code 29882 is included in, or mutually exclusive to, another code billed on the same date of service. Separate payment is not recommended.
- Procedure code 29881 has a status indicator of T, which denotes a significant procedure subject to multiple procedure discounting. The highest paying status T APC is paid at 100%; all others are paid at 50%. This procedure is paid at 50%. This service is classified under APC 0041, which, per OPPS Addendum A, has a payment rate of $1,833.13. This amount multiplied by 60% yields an unadjusted labor-related amount of $1,099.88. This amount multiplied by the annual wage index for this facility of 0.9816 yields an adjusted labor-related amount of $1,079.64. The non-labor related portion is 40% of the APC rate or $733.25. The sum of the labor and non-labor related amounts is $1,812.89. If the total cost for a service exceeds 1.75 times the OPPS payment and also exceeds the annual fixed-dollar threshold of $1,575, the outlier payment is 50% of the amount by which the cost exceeds 1.75 times the OPPS payment. Per the OPPS Facility-Specific Impacts file, CMS lists the cost-to-charge ratio for this provider as 0.326. This ratio multiplied by the billed charge of $1,812.75 yields a cost of $590.96. The total cost of all packaged items is allocated proportionately across all separately paid OPPS services based on the percentage of the total APC payment. The APC payment for this service of $906.45 divided by the sum of all APC payments is 23.94%. The sum of all packaged costs is $20,199.44. The allocated portion of packaged costs is $4,836.72. This amount added to the service cost yields a total cost of $5,427.68. The cost of this service exceeds the annual fixed-dollar threshold of $1,575. The amount by which the cost exceeds 1.75 times the OPPS payment is $3,841.39. 50% of this amount is $1,920.70. The total APC payment for this service, including outliers and any multiple procedure discount, is $2,827.15. This amount multiplied by 200% yields a MAR of $5,654.29.
- Procedure code 99144 has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into payment for other services, including outliers.
- Per Medicare policy, procedure code 94762 is included in other services billed on the same date of service. Separate payment is not recommended.
- Per Medicare policy, procedure code 99205 is included in other services billed on the same date of service. Separate payment is not recommended.
- Per Medicare policy, procedure code 99234 is included in other services billed on the same date of service. Separate payment is not recommended.

4. The total recommended payment for the services in dispute is $22,331.89. This amount less the amount previously paid by the insurance carrier of $7,393.38 leaves an amount due to the requestor of $14,938.51. The requestor is seeking $4,155.13. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is $4,155.13.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of $4,155.13, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

	Grayson Richardson	September 7, 2012
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.